

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

THRU TUBING SOLUTIONS, INC.,

Plaintiff,

v.

ANDREW ROBBINS and
WORKOVER SOLUTIONS, INC.,

Defendants.

No. 4:23-CV-01476

(Chief Judge Brann)

MEMORANDUM OPINION AND ORDER

JANUARY 31, 2024

I. BACKGROUND

Plaintiff, Thru Tubing Solutions, Inc. (“TTS”), asserts claims for breach of contract, trade secrets violations, and tortious interference with contract against Defendants Andrew Robbins and Workover Solutions, Inc. (“WOS”).¹ After the Court granted TTS’s Motion for a Temporary Restraining Order,² the parties were ordered to submit the relevant electronic devices to an independent forensic analyst.³ While the forensic analysis was ongoing, the Defendants filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) and 12(b)(1).⁴ The Court granted in part and denied in part this motion; TTS was then given until December 26, 2022 to file an amended complaint or else its claim for tortious

¹ See Doc. 1 (Compl.).

² See Doc. 7 (Motion for Temporary Restraining Order).

³ See Doc. 13 (Order Granting Motion for Temporary Restraining Order).

⁴ See Doc. 25 (Motion to Dismiss).

interference with contract would be subject to dismissal with prejudice.⁵ Plaintiff now asks the Court to reconsider this part of its Order and to dismiss this claim without prejudice and without any other conditions.⁶

II. LAW

Typically, a final judgment “may be altered or amended if the party seeking reconsideration shows at least one of the following grounds: (1) an intervening change in the controlling law; (2) the availability of new evidence ... or (3) the need to correct a clear error of law or fact or to prevent manifest injustice.”⁷ However, when dealing with a nonfinal, interlocutory order, courts have much broader authority to revise the order “when consonant with justice to do so.”⁸ Because this Court’s Order granting in part and denying in part Defendants’ Motion to Dismiss is not a final judgment, it constitutes an interlocutory order and will be governed under the broader “consonant with justice” standard.⁹

“Before entertaining a motion for reconsideration of an interlocutory order, the movant must still establish good cause for why the court should revisit its prior

⁵ See Doc. 35 (Order Granting in Part and Denying in Part Defendants’ Motion to Dismiss).

⁶ See Doc. 38 (Brief in Support of Motion for Reconsideration) at 1-2.

⁷ *Max’s Seafood Café ex rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999).

⁸ *St. Mary’s Area Water Auth. V. St. Paul Fire & Marine Ins. Co.*, 472 F. Supp. 2d 630, 632 (M.D. Pa. 2007) (quoting *United States v. Jerry*, 487 F.2d 600, 605 (3d Cir. 1973)); see *In re Energy Future Holdings Corp.*, 904 F.3d 298, 310-11 (3d Cir. 2018) (“We have, on occasion, stated that lower courts possess inherent power over interlocutory orders, and can reconsider them when it is consonant with justice to do so.”) (cleaned up).

⁹ The proper vehicle for reconsideration is Federal Rule of Civil Procedure 54, which provides the Court with discretion to “modify any earlier order.” *Confer v. Custom Eng’g Co. Emp. Health Benefit Plan*, 760 F. Supp. 75, 77 (W.D. Pa. 1991) (citing *Juzwin v. Amtorg, Trading Corp.*, 718 F. Supp. 1233, 1234 (D.N.J. 1989)).

decision.”¹⁰ A “motion for reconsideration is ‘not to be used as a means to reargue matters already argued and disposed of or as an attempt to relitigate a point of disagreement between the Court and the litigant.’”¹¹ In other words, it “should not be used to try to get a ‘second bite at the apple,’ or to raise new arguments or evidence that could have been proffered prior to the issuance of the order in question.”¹²

III. ANALYSIS

In support of this Motion, Plaintiff emphasizes that the parties have only completed limited discovery and that additional forensic analysis is ongoing.¹³ “[W]ithout the benefit of this forthcoming additional information[,]” TTS is “not yet able to ascertain whether it can or cannot plead” a tortious interference claim.¹⁴ TTS argues that dismissing this claim without prejudice and without any further conditions is consistent with the “mandate that leave to amend shall be freely given when justice requires.”¹⁵

In response, the Defendants contend that “if there were any purposeful action[s] taken by Robbins or WOS to negatively impact the business interests of

¹⁰ *Oazizadeh v. Pinnacle Health Sys.*, 214 F. Supp. 3d 292, 295 (M.D. Pa. 2016) (citing *Confer*, 760 F. Supp. at 77).

¹¹ *Id.* (quoting *Ogden v. Keystone Residence*, 226 F. Supp. 2d 588, 606 (M.D. Pa. 2002)).

¹² *Id.* (cleaned up) (quoting *Kropa v. Cabot Oil & Gas Corp.*, 716 F. Supp. 2d 375, 378 (M.D. Pa. 2010) and *McDowell Oil Serv., Inc. v. Interstate Fire & Cas. Co.*, 817 F. Supp. 538, 541 (M.D. Pa. 1993)).

¹³ See Doc. 38 (Brief in Support of Motion for Reconsideration) at 2, 6.

¹⁴ *Id.* at 7.

¹⁵ *Id.*

TTS, that evidence would already be known by TTS.”¹⁶ Robbins and WOS also assert that any delay in the forensic investigation can be attributed to TTS’s own failure to diligently pursue discovery.¹⁷ As such, the Defendants believe that Plaintiff has had ample opportunity to replead this claim and ask the Court to deny this Motion.¹⁸

Although the Court shares some of the Defendants’ skepticism, Plaintiff’s Motion for Reconsideration is granted. Given the ongoing forensic investigation and the “liberal pleading philosophy of the federal rules,”¹⁹ the Court’s prior dismissal of this claim without prejudice conditioned upon filing an amended complaint by December 26, 2023 was premature. As “justice so requires[,]”²⁰ Count IV of the Complaint remains dismissed without prejudice, but TTS can seek leave to replead its tortious interference with contract claim in the future.

In accordance with the above, **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Reconsideration (Doc. 37) is **GRANTED**.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge

¹⁶ Doc. 39 (Defendants Response in Opposition to Motion for Reconsideration) at 3.

¹⁷ *See id.* at 4-5.

¹⁸ *Id.* at 2.

¹⁹ *Mullin v. Balicki*, 875 F.3d 140, 151 (3d Cir. 2017) (quoting *Cureton v. NCAA*, 252 F.3d 267, 273 (3d Cir. 2001)).

²⁰ *Behrmann v. Brandt*, Civ. A. No. 19-772-RGA, 2020 U.S. Dist. LEXIS 176176, at *9 (D. Del. Sep. 25, 2020) (quoting FED. R. CIV. P. 15(a)).